

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADJUSTACAM LLC, §
§
PLAINTIFF, § C.A. NO. 6:10-cv-00329-LED
§
v. § JURY TRIAL DEMANDED
§
AMAZON.COM, INC., *et. al.*, §
§
DEFENDANTS. §
§

**DEFENDANT SEARS HOLDINGS CORPORATION D/B/A SEARS' NOTICE OF
JOINDER IN DEFENDANT DELL INC.'S CORRECTED MOTION TO DISMISS
PLAINTIFF'S ALLEGATIONS OF INDIRECT INFRINGEMENT AND WILLFUL
INFRINGEMENT FOR FAILURE TO STATE A CLAIM**

Defendant Sears Holding Corporation d/b/a Sears (“Sears”) hereby joins Defendant Dell Inc.’s Corrected Motion to Dismiss Plaintiff’s Allegations of Indirect Infringement and Willful Infringement for Failure to State a Claim (Docket No. 164) and the associated Notice of Additional Authority Regarding Defendant Dell’s Corrected Motion to Dismiss (Docket No. 180), pursuant to Fed. R. Civ. P. 12(b)(6), and the arguments and authorities found therein.¹

AdjustaCam LLC’s (“AdjustaCam”) allegations of indirect infringement against Sears are substantively the same as those it has asserted against Dell, Inc. (“Dell”), and are deficient for the same reasons set forth in Dell’s Motion to Dismiss. *Compare* First Amended Complaint for Patent Infringement (Docket No. 111), ¶ 180 (Sears) *with* ¶ 92 (Dell); *see also id.* at ¶ 224 (Sears & Dell). Because AdjustaCam has not adequately pled the required facts to support an

¹ Sears is concurrently filing its First Amended Answer to AdjustaCam LLC's First Amended Complaint for Patent Infringement.

allegation that Sears indirectly or willfully infringed the patent-in-suit, its indirect infringement and willful infringement claims against Sears should be dismissed.

Dated: October 5, 2010

Respectfully submitted,

By: /s/ John H. Barr, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to the Federal Rules of Civil Procedure on the 5th day of October, 2010.

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